

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, California 95814**

RH03027484

August 27, 2003

**INITIAL STATEMENT OF REASONS
REGARDING NON-RESIDENT SURPLUS LINE BROKER RECORD KEEPING**

INTRODUCTION

Assembly Bill 2984, Chapter 203, Statutes of 2002, authorizes the issuance of a surplus line broker and special lines' surplus lines broker license to non-residents that is equal in scope to that of residents, effective January 1, 2003. California Insurance Code section 1768, as amended by Assembly Bill 2984, now includes language requiring that records of California insurance business transactions be maintained by these non-resident surplus line brokers and special lines' surplus lines brokers as well as those brokers who hold a resident license. To effectively regulate the activities of these non-resident licensees, the Commissioner must promulgate rules and regulations regarding the records to be maintained and the location where those records must be kept. Previous record keeping requirements as set forth in Title 10, California Code of Regulations, Sections 2190 through 2190.8 apply only to resident surplus line brokers and resident special lines' surplus lines brokers.

In response to the amendment of California Insurance Code section 1768, it is necessary for the Commissioner to amend the existing regulations as they relate to non-resident surplus line broker and special lines' surplus lines broker record keeping. These proposed amendments to the existing regulations add clarifying definitions in order to apply the regulations and further clarify the location for the maintenance of these insurance records. As a result, amended regulation sections 2190.05 and 2190.7 implement, interpret, and make specific the provisions of California Insurance Code section 1768.

On July 14, 2003, the California Office of Administrative Law approved the amendments to regulation sections 2190.05 and 2190.7, described above, through an Emergency Regulatory Action, ER03027484. Therefore, it is now necessary to put the Emergency Regulations through the rulemaking process, thereby resulting in permanent regulations.

STATEMENT OF SPECIFIC PURPOSE AND NECESSITY

The specific purpose of these regulations, and the rationale for the Commissioner's determination that these regulations are reasonably necessary to carry out the purpose for which they are proposed is set forth below:

Section 2190.05 Definitions

Section 2190.05 has been amended to include definitions of resident versus non-resident licensees in an effort to increase clarity in the application of the regulations related to the

maintenance and location of records. These definitions are provided in the additions of sections 2190.05(g), (h), (i), and (j).

Section 2190.05(g) adds the definition of the term “resident surplus line broker” which means a person licensed as a California resident under Insurance Code Section 1765 and authorized to do business pursuant to Division 1, Part 2, Chapter 6, Sections 1760 through 1780.

Section 2190.05(h) adds the definition of the term “resident special lines’ surplus lines broker” which means a person licensed as a California resident under Insurance Code Section 1760.5 and authorized to do business pursuant to Division 1, Part 2, Chapter 6, Sections 1760.5 through 1780.

Section 2190.05(i) adds the definition of the term “non-resident surplus line broker” which means a person licensed as a resident surplus line broker in a state or territory of the United States other than California who is licensed as a non-resident in California under Insurance Code section 1765 and authorized to business pursuant to Division 1, Part 2, Chapter 6, Sections 1760 through 1780.

Section 2190.05(j) adds the definition of the term “non-resident special lines’ surplus lines broker” which means a person licensed as a resident special lines’ surplus lines broker in a state or territory of the United States other than California, or the functional equivalent thereof offered by such state or territory, and who is licensed as a non-resident in California under Insurance Code Section 1760.5 and authorized to do business pursuant to Division 1, Part 2, Chapter 6 Sections 1760.5 through 1780.

Sections 2190.1, 2190.2, 2190.3, 2190.4, 2190.5 and 2190.6 are unchanged.

Section 2190.7 Place Where Records Kept

This section is amended in subsection (a) to include the content and location for required record keeping for both resident and non-resident surplus line brokers and special lines’ surplus lines brokers. As amended, this section sets forth that the required records of non-resident surplus line brokers and non-resident special lines’ surplus lines brokers be maintained in the principal office in the state or territory of the United States in which he or she holds a resident license to act in either of these capacities. This amendment is consistent with the location of record keeping described in Insurance Code Section 1768 and further defined in Insurance Code Section 1767.

IDENTIFICATION OF STUDIES

There are no specific studies relied upon in the adoption of the amendments to Article 7, sections 2190.05 and 2190.7.

SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed amendments would not mandate the use of specific technologies or equipment.

REASONABLE ALTERNATIVES

The Commissioner invites public comments on the proposed regulation amendments which would be equally effective in carrying out the statutory mandate. At present, no alternatives to the proposed regulation amendments were considered by the Commissioner.

ECONOMIC IMPACT ON BUSINESS

The Commissioner has initially determined that the proposed regulation amendments will not have a significant adverse economic impact on businesses. The Commissioner invites interested parties to comment on whether the proposed regulation amendments will have a significant adverse economic impact on business.